

House Judiciary Committee Amendment # 1

Amendment No. 1 to HB0108

Briley
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 143*

House Bill No. 108

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 44, Chapter 8, Part 4, is amended by adding the following as a new section:

Section 44-8-413.

(a)

(1) The owner of a dog has a duty to keep that dog under reasonable control at all times, and to keep that dog from being at large as defined by § 44-8-408. A person who breaches that duty is subject to civil liability for any damages suffered by a person who is injured by the dog while in a public place or lawfully in or on the private property of another.

(2) Such a person may be held liable regardless of whether the dog has shown any dangerous propensities or whether the dog's owner knew or should have known of the dog's dangerous propensities.

(b) The provisions of subsection (a) shall not be construed to impose liability upon the owner of the dog if:

(1) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;

(2) The injured person was trespassing upon the private, nonresidential property of the dog's owner;

(3) The injury occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or a dog owned by the injured person;

(4) The injury occurred while the dog was securely confined in a kennel, crate or other enclosure; or

(5) The injury occurred as a result of the injured person enticing, disturbing, alarming, harassing, or otherwise provoking the dog.

(c)

(1) If a dog causes damage to a person while the person is on the private property of the dog's owner or the owner resides on such property, either as the owner of the property, by permission of the owner or as a lawful tenant or lessee, in any civil action based upon such damages brought against the owner of the dog, the claimant shall be required to establish that the dog's owner knew or should have known of the dog's dangerous propensities.

(2) The element of proof required by subsection (1) shall be in addition to any other elements the claimant may be required to prove in order to establish a claim under the prevailing Tennessee law of premises liability or comparative fault.

(d) The statute of limitations for an action brought pursuant to this section shall be the same as provided in § 28-3-104, for personal injury actions.

(e) As used in this section, "owner" means a person who, at the time of the breach of the duty imposed by subdivision (a)(1), regularly harbors, keeps or exercises control over the dog, but does not include a person who, at the time of the breach, is temporarily harboring, keeping or exercising control over the dog.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.